

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILBERT ROGERS JR.,

Petitioner,

No. CIV S-03-2638 MCE DAD P

vs.

ANTHONY MALFI, Warden,

Respondent.

ORDER

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This action is proceeding on petitioner's second amended petition filed October 18, 2006. On October 23, 2006, the court received petitioner's notice of change of address and motion to amend the first page of the second amended petition to substitute Ivan Clay, warden of Sierra Conservation Center, as respondent in place of T. Felker. Petitioner has submitted a proposed amended first page, which the Clerk has docketed as a third amended petition. In respondent's November 22, 2006 request for an extension of time to respond to petitioner's second amended petition, respondent's counsel indicates that Anthony Malfi is currently the warden of Sierra Conservation Center.

The court will construe petitioner's motion to amend as a motion to substitute respondent and will grant the motion. Anthony Malfi will be substituted as respondent on the basis of respondent's more recent information. By this order, Anthony Malfi is deemed

1 substituted for all prior respondents named in petitioner's pleadings, and all subsequent filings in
2 this case should reflect the substitution. Petitioner is informed that it is unnecessary to amend the
3 second amended petition by attachment of a new cover page showing the correct respondent.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Petitioner's October 23, 2006 motion to amend respondent by attachment
6 (#56), construed as a motion to substitute respondent, is granted;
- 7 2. Anthony Malfi, Warden of Sierra Conservation Center, is substituted for all
8 respondents previously named in this action; and
- 9 3. The Clerk of the Court is directed to amend the docket entry for document #57
10 to reflect that the one-page document with a certificate of service is a proposed amended first
11 page of petitioner's second amended petition and is not a third amended petition.

12 DATED: November 27, 2006.

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15 DALE A. DROZD
16 UNITED STATES MAGISTRATE JUDGE

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